THE HIGH COURT OF UTTARANCAL AT NAINITAL

Writ Petition (M/S) No. 373 of 2001.
(Old CMWP No. 29979 of 1995)

State of Rajasthan through Assistant Commissioner,
Devasthan Vibhag (Rajasthan), Brindaban.

…….. **Petitioner.**

Vs.

1. 1st Additional District Judge, Haridwar.
2. Smt. Damini Sharma,
3. Smt. Tanuja Sharma, daughters and heirs of late Sri Kripa Ram, R/O Mohalla Purani Anaj Mandi, Chowk Bazar, Jwalapur, Haridwar.

…….**Respondents.**

Sri V.K. Bisht Senior Adv. Assisted by Ms. Seema Sirohi, learned counsel for the petitioner.
Learned Standing Counsel for the respondent no.1.

Dated July 25, 2006

P.C.: Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has sought for a writ of certiorari quashing the order dated 19-7-1995 (Annexure No.3 of the writ petition) passed by the respondent no.1 in Misc. Appeal No. 48 of 1994, Kripa Ram Vs. State of Rajasthan and another, thereby allowing the appeal of Kripa Ram, father of respondent nos. 2 and 3 (since deceased) filed against the order dated 19-1994.

Brief facts of the case are that premises in dispute were let out by the local manager of the petitioner to one Kripa Ram deceased for his residential purpose. Said Kripa Ram stated making illegal gains by allowing the pilgrims to stay and use the premises by charging money from them. On these grounds, proceedings were initiated under the U.P. Public Premises (Eviction of Unauthorized Occupants) Act 1972 against him. The prescribed authority issued notice jointly under Sections 4 and 5 of the said Act against Kripa Ram, which was duly served. Objections

were filed against the notice. It was alleged by Kripa Ram in the objection that he was a tenant, but his tenancy had not been determined. It was also contended that the provisions of U.P. Urban Buildings (Regulation of Letting, Rent & Eviction) Act 1972 (hereinafter referred to ***U.P. No. No. XIII of 1972)*** were applicable to the premises in question and the petition was barred by Section 20 of that Act No. 22 of 1972 and premises are not public premises, therefore, Act No. 22 of 1972 was not applicable. The jurisdiction of court was also challenged. The Prescribed Authority after hearing the parties and considering the evidence directed the eviction of said Kripa Ram vide his order dated 19-9-1994. It was held that Kripa Ram was unauthorized occupant and was liable to be evicted. Aggrieved by the said order of Prescribed Authority, Kripa Ram preferred appeal under Section 9 of the U.P. Act No.22 of 1972, which was finally heard and decided by the respondent no.1, which is impugned in this writ petition.

Senior Advocate Sri V.K.Bist, assisted by Ms. Seema Sirohi, learned counsel for the respondent nos. 2 and 3 has argued that the respondent no.1 erred in law in taking a view as the property in question belonged to State of Rajasthan, As such the proceeding under the Rajasthan State Public Premises (Eviction of unauthorized occupants) Act 1964 ought to have been taken instead of U.P. Act No.22 of 1972 irrespective of the fact that the property is situate within the territory of the Stat of U.P. and within the limits of the jurisdiction of the Prescribed Authority.

The argument raised by the learned Senior Advocate is misconceived because the Rajasthan Act only applies to the property situated within the territory of Rajasthan and not Uttar Pradesh. When the petitioner had already admitted in his pleadings that property was let out to one Kripa Ram, the provisions of Urban Building Act (U.P. Act No. XIII of 1972) became applicable and the Act No. 22 of 1972 applies only when the

property belongs to the State of U.P. (now State of Uttaranchal). In both the situations neither the Rajasthan Act nor the Public Premises (Eviction of Unauthorized Occupants) Act 1972 (U.P. Act No.22 of 1972) is applicable to the present case.

Respondent No.1 has already given liberty to the petitioner to proceed for ejectment of the respondent as per law and in that event the order will not come in the way of fresh proceedings.

In the result, the writ petition is devoid of merit and is herby dismissed. No order as to cost.

(B. S. Verma, J.)

RCP